

# Notice territorial authority's requirement for designation or alteration of designation

*[Sections 168A](#), and [181\(4\)](#), Resource Management Act 1991*

**Selwyn District Council** gives notice of a requirement to add a new designation.

## 1. The site to which the requirement applies is as follows:

**Name:** Kirwee Cemetery

**Address:** Hoskyns Road (west of Courtenay Road, 1km north of Kirwee), Kirwee

**Legal Description:** RESERVE 2358 BLK VIII HAWKINS SD

**Area:** 4.0469 hectares

## 2. The nature of the proposed public work (*or project or work*) is:

(a) Description of the type of the designation:

**Public Cemetery**

(b) Description of the Scope of work:

a. *Purpose*

- i. To provide areas to meet the burial and remembrance needs of district residents as required by the Burial and Cremations Act 1964.
- ii. To assist in the preservation of the district's social history.

b. *Scope of Work*

- i. The scope of work is to provide land and supporting infrastructure and facilities to enable the operation of a public cemetery for the interment of human remains and installation of memorials for remembrance purposes. Specifically this includes:
  - Burial plot areas set aside for interment of human remains including ashes
  - Excavation and backfilling of plots for burial purposes
  - Conducting burial/funeral services
  - Visitation of graves
  - Maintenance and installation of headstones and memorials
  - An access road and paths
  - Shelter and amenity planting
  - Park furniture including seats, rubbish receptacles and signage

c. *Scale*

- i. All work will be conducted within the area identified on the attached map.
- ii. The average number of burials occurring at this site per year is very low (based on historical use).
- iii. No increase in the scale or intensity of activity on this site for public cemetery purposes is anticipated.

**3. The nature of the proposed conditions that would apply are:**

No conditions are required for this activity as the cemetery operation is managed and controlled under the Council's Cemetery Bylaw 2017.

**4. The effects that the public work (or project or work) will have on the environment, and the ways in which any adverse effects will be mitigated, are:**

- (a) Cemeteries may have a visual impact on the surrounding environment. This cemetery site has been developed with boundary and amenity planting to reduce the visual impact on the surrounding environment and to provide screening and seclusion for the activity to occur. The unused parts of the cemetery are fenced off and leased for grazing. Cemeteries provided to service local communities are an accepted part of the environment.
- (b) There will be a concentration in intensity of vehicle movements at the sites when funerals occur. The intensity of vehicle movements will be for a short duration (normally for one to two hours). Parking for funeral purposes is provided along the road verge outside the cemetery. The level of use is very low (generally less than five burials per year) and does not warrant the provision of permanent car parking areas. Effects of vehicle movements are, therefore, less than minor.
- (c) The use of the site requires excavation for graves and on-site stock-piling. This use is for a short duration (normally over a period of one to two days) and the volume of excavated/stock-piled material is low (less than 5 cubic metres).
- (d) The use involves the burial of human remains into the ground. The decomposition of organic matter in the ground and presence of disease or treatment chemicals/compounds (e.g. embalming fluids, Strontium-90) may have the potential to contaminate ground water. This effect is managed under the Land and Water Regional Plan – Rules 5.81, 5.82 and 5.83. The use of land for a cemetery that existed before 5 September 2015 is a permitted activity.
- (e) The use of land for a cemetery in this location has a benefit to the local community in providing a place for burial within the locality to extend connectedness beyond the life of residents. It also provides a convenient location for remembrance by the local community and as a record of the social history of the locality. Cemeteries form part of the fabric and identity for communities and are a valued part of the community. The Council provides a network of cemeteries that are distributed across the district to deliver a level of convenience and availability for residents and this cemetery forms an integral part of that network. The planting undertaken in the cemetery contributes to the landscape amenity of the locality.
- (f) There is additional undeveloped space available for burials within the existing site and there are no plans to increase the intensity and scale outside of the existing cemetery. Therefore all effects are existing and form part of the existing environment and any future effects will only be incremental changes.
- (g) There are no adjacent or nearby sensitive activities to this site.

## 5. Statutory Assessment

The following is relevant to this activity:

### **Burial and Cremations Act 1964** and specifically **s.4 - Local authorities to provide cemeteries**

- i. It shall be the duty of every local authority, where sufficient provision is not otherwise made for the burial of the bodies of persons dying within its district, to establish and maintain a suitable cemetery.
- ii. Every local authority is hereby authorised to undertake any work for the purpose of carrying out the duty imposed on it by subsection (1) and to expend such money as it thinks fit on the acquisition of land for cemeteries and on the establishment, maintenance, and improvement of cemeteries.
- iii. A cemetery is a public work within the meaning of the Public Works Act 1981 and land may be acquired or taken for cemeteries under the provisions of that Act.

### And, **s.8 Management of cemetery**

A local authority may from time to time—

- a. enclose the land comprised in a cemetery, or any portion thereof, with proper and sufficient walls, rails, or fences, and erect suitable gates and entrances:
- b. lay out and ornament a cemetery in such manner as is most convenient and suitable for the burial of the dead, and provide it with such walks, avenues, roads, lawns, and shrubberies as it thinks proper:
- c. preserve, maintain, and keep a cemetery and its walls, rails, fences, gates, and entrances and all monuments, enclosures, buildings, erections, walks, avenues, roads, lawns, and shrubberies therein in a safe, clean, and orderly condition:
- d. make all necessary and proper drains in and about a cemetery for draining and keeping it dry; and may from time to time, as occasion requires, cause any such drain to connect with any existing drain with the consent in writing of any other persons having the management of any such existing drain, and with the consent in writing of any other persons having the management of any street or road and of the owners and occupiers of any land through which such drain is made, doing as little damage as possible to the road or such land, and restoring it to the same or as good condition as it was in before being disturbed.

### **Operative Selwyn District Plan**

The following extracts from the Selwyn District Plan are relevant to cemeteries located in the residential zone.

Cemeteries are listed as 'Community Facilities' in the Township Volume of the District Plan refer section ***B2.3 - Community Facilities and Recreational Areas - Issues***

***Community facilities*** include land, buildings, equipment and services available to local communities for a range of activities, with or without a charge. They include: meeting halls, places of worship, schools, recreation areas and reserves, emergency services, and cemeteries.

The District Plan notes that access to community facilities is important to foster a sense of community or association in an area; and to meet people's expectations to have access to community facilities. It also notes that community facilities bring benefits to residents. It is desirable to have them located in or close to residential areas, so that not only are they easily accessible to residents in the townships, but they are sited close to the communities they serve. Residents in townships also need to recognise that existing community facilities in living areas are part of the environment in which they live.

### ***Community Facilities and Recreational Areas - Strategy, Objectives, Policy and Methods***

The Township Volume of the District Plan uses the following basic strategy to address issues with community facilities and reserves:

- Any plan change request to rezone land for residential or business development should include an assessment of the impacts of the growth on community facilities and ways in which those impacts can be addressed.

#### ***Objective B2.3.1***

Residents have access to adequate community facilities.

#### ***Objective B2.3.2***

Community facilities do not adversely affect residential amenity values or other parts of the environment.

Objective B2.3.1 recognises that community facilities are essential to meeting people's needs and expectations and to ensure that people have access to community facilities. Objective B2.3.2 recognises that community facilities can have adverse effects on the environment but any potential effects can be managed to ensure that these facilities are easily accessible for and to residents.

#### ***Policy B2.3.1***

Encourage co-ordination between the provision of community facilities, and new residential and business development.

#### ***Explanation and Reasons***

New residential and some new business development in townships create additional demand for community facilities. In some townships, this demand can be met by existing, under-utilised facilities. In other townships additional facilities will be needed.

Any person can request a plan change to rezone land for new residential or business development at, almost, any time. Therefore, parties providing community facilities must be consulted about effects of extra residential on community facilities; and how any new or upgraded facilities can be provided, in ways that are consistent with the other objectives and policies of the District Plan. The Council requires this information to be submitted with plan change requests to rezone land. Council does not require the applicant to provide the additional community facilities. Development contributions towards community facilities are taken under the LTP Development Contribution Policy.

#### ***Methods***

District Plan Policy

- To assess plan change requests to rezone land for new residential or business areas, to ensure adequate facilities are available.

LTP

- Development Contribution Policy

### ***Policy B2.3.2***

Encourage community facilities to be located in areas where they are easily accessible to residents, including in Living zones, provided any adverse effects on the environment can be avoided, remedied or mitigated

#### ***Explanation and Reasons***

Community facilities should be located on sites which are easily accessible to residents, including children and people with impaired mobility. Therefore they need to be safe and easy for pedestrians and cyclists to access; and have car parking close by. Community facilities are encouraged to locate in Living zones, provided any effects are compatible with residential amenity values.

#### ***Methods***

##### **District Plan Rules**

- Community facilities that comply with effects-based rules can locate in a zone as a permitted activity.

### ***Policy B2.3.3***

Encourage community facilities to be designed and formed:

- To be easily accessible for people with impaired mobility and children;
- With regard to personal safety; and
- To be cost effective (where local government funding is involved); and
- To utilise buildings with heritage values where possible and appropriate.

#### ***Explanation and Reasons***

Community facilities need to be accessible and 'safe' for residents to use and enjoy them. They also need to be cost effective for the Council (and thus ratepayers) to maintain. Cost effective does not mean 'cheapest'. It means 'the best value for ratepayers money'.

The location, shape and landscaping features of grounds; night lighting; and surrounding land uses are all factors that influence how accessible and safe community facilities are and how much they cost to maintain. Utilising heritage buildings for community purposes aids the long term conservation and retention of heritage sites in the District where this is possible and appropriate.

#### ***Methods***

##### ***District Plan Rule***

- Subdivision: Council retains discretion over the location, design and layout of reserves to vest in the Council.

##### **Asset Management Plan**

- Design, layout and management of community facilities vested in the Council.

##### **Advocacy**

- Encourage other organisations which provide community facilities to think about personal safety and accessibility in their design and location.

#### ***Policy B2.3.4***

Avoid locating community facilities on the opposite side of Strategic Roads or railway lines, from the main residential area(s) in a township, unless a safe access route is provided between areas, for motorists, pedestrians and cyclists.

#### ***Explanation and Reasons***

When community facilities are located on the opposite side of a main road or a railway line from the main residential area in a township, the following adverse effects can occur:

Access can be difficult or dangerous, especially for pedestrians or cyclists.

Congestion from vehicles parking and manoeuvring can reduced traffic safety and impede traffic flow along the road.

Strategic Roads are listed in Part E, Appendix 7.

In some townships community facilities are already located on the opposite side of a Strategic Road or railway line from the main residential area. Policy seeks to avoid exacerbating existing problems and creating additional ones. In some cases, potential adverse effects may be avoided or mitigated by creating safer access over Strategic Roads to community facilities such as a controlled intersection.

#### ***Methods***

##### District Plan Policies

- To assess plan change requests to rezone land for new residential or business areas

##### District Plan Rules

- Access onto a Strategic Road
- Car parking

##### Asset Management Plans

- Location of new reserves and other community facilities vested in the Council

##### Advocacy

- With other authorities

#### ***Policy B2.3.5***

Recognise existing community facilities as part of the environment when assessing effects of any proposed changes to the facility.

#### ***Explanation and Reasons***

Most townships in Selwyn District have a mix of residential and business activities, and community facilities. The activities are not separated into different zones or areas. In many cases there is no need to separate the activities, because they do not adversely affect each other. The District Plan contains several policies that recognise this land use pattern and require it to be taken into account when the consent authority considers resource consent applications for changes to business activities and community facilities in Living zones (see Part B, Section 3.4, Policy B3.4.8).

Lawfully established community facilities are part of the existing environment. Only the environmental effects of changes to a community facility should be considered, not environmental effects as if the whole community facility is a new activity.

### *Method*

#### District Plan Policy

- To assess resource consent applications for activities that do not comply with the rules for permitted activities or with section 10 of the Act – Existing Uses.

### ***Policy B2.3.6***

Encourage co-locating community facilities where appropriate.

#### *Explanations and Reasons*

Co-locating community facilities may have the following benefits:

- Reducing potential effects on residential amenity values by reducing the area where residential activities and community facilities share boundaries.
- Shared car parking facilities, access and roading design to reduce traffic effects.
- Facilitating multiple use of community facilities and “one stop” services for people using more than one facility.

Co-locating community facilities may be inappropriate if:

- The facilities adversely affect one another.
- The site is inappropriate for community facilities in the first instance and the consent authority does not want to encourage more people, traffic or buildings in the area.
- The facilities should be spread throughout the township to benefit residents, e.g. neighbourhood reserves.
- The facilities create greater benefits if spread throughout the township.

### *Methods*

#### Advocacy

- Promote co-location of community facilities as opportunities arise

#### District Plan Rule

- Allow community facilities to share car parking requirements when the facilities are unlikely to be available or used during overlapping times. See [Part E, Appendix 13](#).

### ***Policy B2.3.7***

Facilitate multiple use of individual community facilities, where appropriate.

The multiple use of community facilities, including reserve areas, can have the following benefits:

- Reduced costs for the communities and developers in providing separate land areas or money for duplicate facilities.
- Reduced costs to communities for ongoing maintenance and renewal of duplicate facilities.
- More efficient use of land or buildings, especially existing, under-utilised facilities.

The “efficient use and development of natural and physical resources” is a matter the Council must have particular regard to, under the Act (section 7(b)).

Multiple use of community facilities may be inappropriate in some cases. For example:

- If the uses are not readily compatible.

- The facility is too far away to be easily accessible for a community.

The organisation owning the community facility makes the final decision as to whether the land or building may be used for more than one purpose. [Policy B2.3.7](#) recognises that multiple use has benefits. Therefore, the District Plan does not prevent it from happening, except where necessary to address an adverse effect.

#### *Methods*

##### Advocacy

- Promote multiple use of community facilities as opportunities arise.

##### Asset Management Plans

- Identify opportunities for multiple use of community facilities and reserves vested in the Council.

#### ***Community Facilities and Recreational Areas – Anticipated Environmental Results***

The following environmental results are expected to occur from implementing Section B2.3:

The Operative District Plan Strategy, Objectives, Policy and Methods support the provision of community facilities such as cemeteries in the residential zones and seek to encourage use and recognise that they are part of the residential environment.

#### ***Operative District Plan Rules***

The following District Plan Rules may apply to Kirwee Cemetery:

1.7 Earthworks and Setbacks, Volume and Site Rehabilitation

4.5 Vehicle Accessways and Vehicle Crossings

4.6 Vehicle Parking and Cycle Parking

9.13 Activities and Vehicle Movements

9.19 Activities and Dust

#### **Draft Proposed Selwyn District Plan**

The draft Proposed District Plan currently provides for cemeteries under the definition of 'community facility', which means *"land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility"*.

Council has a statutory responsibility to provide for the current and future burial needs of the district's residents as prescribed in Section 4 of the Burial and Cremation Act 1964. Therefore, it is considered that the provision of cemeteries appropriately fits within the definition of "community facility".

The draft plan also provides for cemeteries as a permitted activity. The provision of cemeteries as a permitted activity recognises that they are an essential service to the community and provide a number of functions that contribute to the social, cultural and environmental wellbeing of the community.

#### **Canterbury Regional Policy Statement**



There is no reference to cemeteries in the Regional Policy Statement

## **Land and Water Regional Plan**

The following policies and rules are applicable to cemeteries:

### **S.4.30 – Policies - Hazardous Substances & hazardous activities**

New cemeteries are located away from areas where they may be subject to inundation from surface water bodies or in areas with groundwater less than 3 m below the ground surface.

### **S.5 – Region-wide Rules - Cemeteries**

5.81 The use of land for a cemetery that existed as at 5 September 2015, and any ancillary discharge of contaminants into or onto land in circumstances where a contaminant may enter water is a permitted activity.

5.82 The use of land for a new cemetery or an extension to an existing cemetery after 5 September 2015, and any ancillary discharge of contaminants into or onto land in circumstances where a contaminant or water may enter water, is a permitted activity, provided the following condition is met:

1. Any new cemetery or an extension to an existing cemetery after 5 September 2015 is not located:
  - a. within 20 m of a surface waterbody or the Coastal Marine Area; and
  - b. within 50 m of a bore used for water abstraction; and
  - c. within a Community Drinking-water Protection Zone as set out in Schedule 1; and
  - d. where groundwater is less than 3 m below the ground surface; and
  - e. within the Christchurch Groundwater Protection Zone as shown on the Planning Maps; and
  - f. on a contaminated or potentially contaminated land.

5.83 The use of land for a new cemetery, or any extension to an existing cemetery after 5 September 2015, and any ancillary discharge of contaminants into or onto land in circumstances where a contaminant or water may enter water, that does not meet condition in Rule 5.82 is a discretionary activity.

### **Schedule 3 Hazardous Industries and Activities**

G. Cemeteries and waste recycling, treatment and disposal

1. Cemeteries

#### **5. Alternative sites, routes and methods that have been considered to the following extent:**

The requiring authority has an existing interest in the land required for the designation. The works being designated are existing and have been operating for some time. The works provided for by the designation will not result in any significant adverse effects on the environment. It is therefore not necessary to consider alternatives.

#### **6. The public work (or project or work) and designation (or alteration) are reasonably necessary for achieving the objectives of the requiring authority because:**

The purpose of the designation is to be able to provide a cemetery and undertake burial and funeral activities to meet the needs of residents in the Kirwee locality. This work is necessary to be able to provide for the burial and remembrance needs of the Kirwee community. The Council is duty bound under the Burial and Cremations Act 1964 to provide a cemetery for the burial of the bodies of persons dying within its district. Given the geographical extent of the

district, the Council has chosen to provide a network of cemeteries to service the dispersed communities.

The Council's ***Long Term Plan*** notes the following in relation to cemetery provision:

"Cemeteries are important for their memorial and cultural links to the past as well as their present day interment function."

"Provision of cemeteries is necessary to meet the burial and remembrance needs of resident and has an important role in preserving the district's social history."

The Council's ***Community Facilities Activity Management Plan*** includes the following in regard to cemeteries:

"The Council considers the provision of cemeteries to be a core service required to satisfy the burial and remembrance needs of the District's population. Delivery of this service contributes to achievement of community outcomes related to the promotion of a healthy community. The Council has adopted the role of primary service provider as, although there are some private cemeteries managed through churches, these do not make a significant contribution. Council has a statutory responsibility to provide for the current and future burial needs of the district's residents as prescribed in Section 4 of the Burial and Cremation Act 1964.

Planning for cemeteries is required to meet both short term and long term requirements and to realise Council's strategic direction. As the District's population grows and changes the Council will need to plan and provide for future cemetery requirements.

Cemeteries serve a number of functions that contribute to the social, cultural and environmental wellbeing of the community. These include the following:

- Provide for the burial needs of the District including both full burial and ashes interments
- Provide places for celebrating and remembering the lives of friends and family
- Cater for a diversity of cultural and ethnic requirements
- Create visual amenity (such as gardens, tree plantings, and green open space)
- Provide passive areas of open space for quiet contemplation, walking and sitting
- Contribute to the landscape character of the district
- Provide opportunities to explore and research social and genealogical history
- Provide physical records of the district's social history
- Enable preservation of historic sites and features.

Council's strategic direction in relation to the activity is to ensure there is sufficient provision of cemeteries to meet community requirements. This is in terms of:

- Capacity for future burial requirements;
- Distribution to ensure communities have access to a cemetery;
- A range of burial options are provided for;
- Cemeteries are maintained and developed to the standard expected by the community

It was determined that it was more appropriate to pursue a designation as:

- designations allow more flexibility for local authorities to develop long term projects (consistent with the long term plan) with the capability of modifying the activities and facilities to suit changing community needs.

- a designation allows the land needed for the works to be identified in the District Plan, clearly indicating the intended use of the land.
- The Selwyn District Council already retains the necessary interests in this land to undertake the activity relevant to the propose of the designation
- The designation will provide ongoing protection for the designated purpose and restrain other land uses or developments that could hinder the works.

**7. The following resource consents are needed for the proposed activity and have (or have not) been applied for**

None are required.

**8. The following consultation (or No consultation) has been undertaken with parties that are likely to be affected:**

No consultation has been undertaken as no parties are considered to be affected.

**9. The Selwyn District Council attaches the following information required to be included in this notice by the district plan, regional plan, or any regulations made under the Resource Management Act 1991.**

1. Aerial Photograph indicating the site boundaries
2. Gazette Notice

**Signature of person giving notice**

(or person authorised to sign on behalf of person giving notice)



Mark Rykers

**Date:** 3 June 2020

## ATTACHMENT 1



## ATTACHMENT 2

### ORDER IN COUNCIL.

At the Government House at Wellington, this 1st day of November, 1921.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

IN pursuance and exercise of the powers conferred by the Public Works Act, 1908, and of all other powers in any-wise enabling him in this behalf, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby approve of the following resolution passed by the Takaka Town Board on the fourth day of October, one thousand nine hundred and twenty-one, viz. :—

"That the Takaka Town Board, having control of that portion of road described in the Schedule hereto, by resolution declares that the provisions of section one hundred and seventeen of the Public Works Act, 1908, shall not apply to the said portion of road.

*Vesting a Reserve in the Malvern County Council.*

JELLICOE, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 1st day of November, 1921.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS the land described in the Schedule hereto has been permanently reserved for a public cemetery: And whereas it is expedient to vest the said reserve in the Chairman, Councillors, and Inhabitants of the Malvern County:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, and in exercise of the powers and authorities

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conferred upon him by the fourth section of the Public Reserves and Domains Act, 1908, doth hereby declare that from and after the day of the date hereof the reserve described in the Schedule hereto shall become vested in the Chairman, Councillors, and Inhabitants of the Malvern County, in trust, for a public cemetery.

#### SCHEDULE.

CANTERBURY LAND DISTRICT.

RESERVE 2358, Block VIII, Hawkins Survey District: Area, 10 acres.

F. D. THOMSON,  
Clerk of the Executive Council

purposes; and provided further that if accounts are paid within fourteen days after due date the charges shall not exceed 9d. per unit for lighting purposes and 4d. per unit for motor-power, cooking, or heating purposes.

In the case of wholesale supply the charges shall not exceed £12 per horse-power per annum. "Wholesale supply" for this purpose shall be held to be a supply in respect of which the consumer shall guarantee to pay not less than £120 per annum.

#### 6. VARIATION IN CONDITIONS OF LICENSE.

The terms and conditions of this license may at any time or from time to time, at the request or with the consent in writing of the licensee, be altered by the Governor-General by Order in Council.

#### 7. ROUTES RESERVED FOR GOVERNMENT LINES.